HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7310 OF 2002.
ALONG WITH
CIVIL APPLICATION NO. 3004 OF 2005.

Krishi Utpanna Bazar Samiti, Pune. ..Petitioner.

Versus.

Ramlal Kanyalal Dangi & Ors. ..Respondents.

Shri.A. E. Deshmukh for the Petitioner.

Shri. S. S. Kanetkar i/b G. S. Godbole for the respondent nos. 1 to 3.

CORAM: S.B.MHASE, J.

DATE : MAY 4, 2006.

P.C.

1. Heard both sides.

2. This petition arises from the order passed in Miscellaneous Civil Appeal No. 348 of 2002 dated 26th July 2002 passed by the 6th Additional District Judge, Pune. Regular Civil Suit No. 162 of 2002 has been filed by respondents in the Court of the Civil Judge Junior Division, P.M.C, Pune, claiming declaration that defendant no. 1 in that suit (respondent no.4 herein) has no authority to lay a proposed public road from the building Nos. A-7 and A-8 and the said act is illegal,

null and void and unauthorised. Further prayers are made as against respondent Nos. 1 to 8. It is not necessary to refer to those prayers at this stage.

2. In that suit, application Exhibit-5 was filed seeking temporary injunction as against the defendants in the said suit. However, that application was rejected by order dated 7.6.2002 by the Civil Judge, Jr. Division. Being aggrieved by the said order original plaintiffs (respondent Nos. 1 to 3 in the petition) preferred Miscellaneous Civil Appeal No. 348 of 2002 before the District Judge, Pune which was transferred to the 6th Additional District Judge, Pune for hearing and disposal. By order dated 26th July 2002, the 6th Additional District Judge, Pune decided the said appeal No. 348 of 2002 in favour of the original plaintiff (respondent Nos. 1 to 3 herein) and thereby allowed the application Exhibit -5 in Regular Civil Suit No. 162 of 2002 and restrained the original defendant nos. 1 to 8 from laying proposed road through the property bearing Survey No. 570/1 plus 572/b situated at Bibvewadi, Pune.

3. Being aggrieved and dissatisfied by this order passed by the 6th Additional District Judge, Pune, original defendant no. 8 has approached to this Court.

4. Petition was admitted on 21st September 2005, however, interim relief was not granted at that stage. However, it was observed by the Court that the petitioner is having liberty to apply for the interim relief, if occasion arises.

5. Therefore, Civil Application No. 3004 of 2005 has been filed by the original petitioner. At the time of hearing of this application, learned counsel submitted that the grievance of the petitioner will be redressed if the trial Court is directed to dispose of the suit as expeditiously as possible within a fixed time. He submitted that if such directions are given, on instructions of the petitioner, not only civil application will be withdrawn but the main petition will also be withdrawn. Therefore, the matter was placed today for taking instructions as per the statement made by the learned counsel.

6. Now, learned counsel for the petitioner, on instructions received from the Administrator Shri. B.J.Deshmukh of the petitioner, states that leave to withdraw the petition and civil application be granted with further directions to the trial Court that suit shall be disposed of within a time bound programme. Learned counsel for the respondent is not having any

objection for such disposal of the petition and civil application.

7. In view of the statements made by both side counsel, the following order is passed.

: ORDER :

(1) The Petitioner is allowed to withdraw writ petition as well as civil application, and accordingly they stand disposed of.

(2) Trial Court is directed to dispose of the suit as early as possible, preferably on or before 30th September 2006.

(3) The plaintiff and defendant and their advocates are hereby directed to co-operate with the trial Court for early disposal of the suit.

(S.B.MHASE, J.)